

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICK BENAVIDEZ,  
DAMIAN MARON,

Defendants.

Case No. **19-CR-0592 WJ**

**UNOPPOSED MOTION TO WITHDRAW AS COUNSEL  
AND HAVE NEW CJA COUNSEL APPOINTED FOR MR. BENAVIDEZ**

COMES NOW, Defendant RICK BENAVIDEZ, by his appointed CJA counsel, Barrett G. Porter, Burgess and Porter Law, and respectfully requests that this Court enter an order allowing undersigned counsel to withdraw from this case and have new CJA counsel appointed for Mr. Benavidez.

In support of this Motion, Counsel states as follows:

1. On February 27, 2019, Mr. Benavidez was indicted for one count of Conspiracy under 18 U.S.C. § 1349, and two counts of Bank Fraud (Aiding and Abetting) (Doc. 2). The time span for the alleged offenses are between April 18, 2013 to May 31, 2013.
2. Mr. Benavidez was arraigned on March 5, 2019.
3. Mr. Benavidez was initially assigned counsel with the federal public defender's office, Ms. Margaret Katze.
4. Defense counsel was subsequently assigned to represent Mr. Benavidez on March 11, 2019.

5. Discovery was provided to defense counsel by the United States Attorney's Office on March 15, 2019. (arrival date).

6. Defense counsel met with Defendant in person five times to review the law and discovery in this case. Two of the visits were when Mr. Benavidez was in custody, and three other visits after counsel was able to secure Mr. Benavidez' release from custody.

7. During the interviews with Mr. Benavidez, Mr. Benavidez presented several very novel theories for his defense and unusual discovery requests. Counsel sought legal authority for the request and did some research into the requests.

8. In the most recent meeting with Mr. Benavidez on November 7, 2019, Mr. Benavidez made several additional requests of counsel. When counsel indicated that no legal work would be done on the requests, Mr. Benavidez informed undersigned counsel that he wished to fire his counsel and have new counsel appointed, or he wanted to represent himself.

9. As a result of the communication breakdown, counsel is unable to work with Mr. Benavidez to build a defense and prepare for trial in this matter.

10. Defense counsel has contacted Assistant United States Attorney Paul Schied, and counsel for the co-defendant, Ahmad Assed, and neither party opposes this request for the appointment of new counsel.

WHEREFORE the defendant, respectfully requests that the Court enter an order granting permission for the withdrawal of Barrett G. Porter as counsel for Mr. Benavidez, and issue an order for the appointment of new CJA legal counsel for his defense.

Respectfully Submitted,

BURGESS & PORTER LLC

By: /s/ **Barrett G. Porter**

Barrett G. Porter / Susan Burgess-Farrell

Burgess & Porter Law  
400 Gold Avenue, SW, Suite 910  
Albuquerque, New Mexico 87102  
(505) 433-5545  
*Attorney for Defendant David Levan*

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the **11-15-19**, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

**Paul Schied & Sean Sullivan**  
U.S. Attorney's Office  
District of New Mexico  
P.O. Box 607  
Albuquerque, New Mexico 87103

**Ahmad Asssed**  
818 5<sup>th</sup> Street, NW  
Albuquerque, NM 87102  
Email: ahmad@assedlaw.com

/s/ Barrett (Barry) G. Porter  
BURGESS AND PORTER LLC